

HOUSE No. 1572

By Mr. Galvin of Canton, petition of William C. Galvin, Louis L. Kafka and James E. Timilty relative to low and moderate income housing in the Commonwealth. Housing.

The Commonwealth of Massachusetts

PETITION OF:

William C. Galvin Walter F. Timilty
Louis L. Kafka

In the Year Two Thousand and Five.

AN ACT RELATIVE TO LOW AND MODERATE INCOME HOUSING IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Massachusetts General Laws Chapter 40B, as
2 appearing in the 2000 Official Edition, is hereby amended in
3 section 20 of said chapter 40B, in the definition of “Low or mod-
4 erate income housing” by adding the following— Low or mod-
5 erate income housing shall include housing subsidized by the
6 federal or state government to provide housing for individuals
7 with long term disabilities, including but not limited to, schools,
8 nursing homes, assisted living facilities, and residential group
9 homes.

1 SECTION 2. Said section 20 of said chapter 40B, as so
2 appearing, is hereby further amended after the word “housing,” in
3 line 22, by adding the following:— The city or town may consider
4 the size of the project in determining if it is consistent with local
5 needs.

1 SECTION 3. Said section 20 of chapter 40B is hereby further
2 amended by inserting after the word “town,” in line 25, in the

3 “consistent with local needs” section, the following words:— and
4 certified total number of residential housing units per the local
5 assessor’s office.

1 SECTION 4. Section 21 of said chapter 40B, as so appearing,
2 is hereby amended by inserting after the first sentence the
3 following sentences:— The funding agency must notify the chief
4 elected official of the city or town and the boards of zoning, plan-
5 ning, health and conservation to solicit proposal review com-
6 ments. A preliminary site plan and narrative project description
7 must be submitted with the comment request letter.

1 SECTION 5. Said section 21 of said chapter 40B, as so
2 appearing, is hereby further amended by inserting after the second
3 sentence, the following sentence:— The planning board in each
4 city or town is required to review the applications and submit
5 written comment to the board of appeals.

1 SECTION 6. Said chapter 40B is hereby further amended by
2 inserting after section 21 the following section:—
3 Section 21A. Pursuant to 760 CMR 31.07(1)(i), a community
4 may develop and implement an affordable housing plan. A city or
5 town that begins to develop an affordable housing plan shall be
6 provided with a temporary moratorium from comprehensive
7 permit applications until said city or town submits the plan to the
8 Department of Housing and Community Development. The
9 Department and city or town must have a mutually agreed upon
10 date of submission for the plan, in order for the city or town to be
11 eligible for the temporary moratorium. If the city or town does
12 not comply with the date of submission for the plan, the morato-
13 rium will end on the agreed upon date.

1 SECTION 7. Said chapter 40B is hereby further amended by
2 inserting after section 21 the following section:—
3 Section 21B. Each city or town shall certify annually to the
4 Department of Housing and Community Development the number
5 of housing units within its borders that meet the criteria in order
6 for the units to be counted toward the city’s or town’s low and
7 moderate income housing stock. A city or town may deny a com-

8 comprehensive permit application if their low or moderate income
9 housing is in excess of eight percent and the city or town has an
10 affordable housing plan that has been certified by the Department
11 of Housing and Community Development.

1 SECTION 8. Said chapter 40B is hereby further amended by
2 inserting after section 21 the following section:—

3 Section 21C. All low and moderate income units included in a
4 comprehensive permit shall have a use restriction of perpetuity
5 and such restriction shall be recorded in the registry of deeds for
6 the district court in which the land lies or the registry district of
7 the land court.

1 SECTION 9. Said chapter 40B is hereby further amended by
2 inserting after section 21 the following section:—

3 Section 21D. A city or town that has a certified housing plan by
4 the Department of Housing and Community Development shall be
5 allowed to limit the amount of comprehensive permit applications
6 before the board of appeals to three percent of the total housing
7 inventory.

1 SECTION 10. Said chapter 40B is hereby further amended by
2 inserting after section 21 the following section:—

3 Section 21E. The Department of Mental Retardation and the
4 Department of Mental Health shall report to the Department of
5 Housing and Community Development relative to the facilities
6 located in each city and town that house low or moderate income
7 individuals, and submit a copy to each city and town across the
8 Commonwealth. Homeownership obtained through public sub-
9 sidy, including but not limited to, low interest, no down payment,
10 loan insurance programs, shall be reported to the Department of
11 Housing and Community Development by the agency granting the
12 mortgage, with a copy of the notice to the city or town.

1 SECTION 11. Section 23 of said chapter 40B, as so appearing,
2 is hereby amended by inserting after the word “approval,” in
3 line 12, the following words:—

4 The Department of Housing and Community Development
5 shall define the types of “waivers” that are allowed due to an

6 uneconomic project. The burden of proof shall be on the appli-
7 cant to prove that the project is uneconomical. The applicant must
8 also prove that the waiver will not adversely affect the communi-
9 ty's resources or health and well-being of the residents.

1 SECTION 12. Said chapter 40B is hereby further amended by
2 inserting after section 23 the following sections:—

3 Section 23A. Applicants must fund all reasonable and delib-
4 erate review costs incurred by the city or town, including but not
5 limited to, use of outside consultants, legal counsel, engineering
6 consultants and the overhead administrative expenses.

7 Section 23B. All applicants shall meet state requirements,
8 including but not limited to, environmental requirements, prior to
9 the issuance of a project eligibility letter.

1 SECTION 13. Said chapter 40B is hereby further amended by
2 inserting after section 23 the following section:—

3 Section 23C. The Department of Housing and Community
4 Development shall have an educational outreach program for
5 cities and towns relative to the affordable housing law and regula-
6 tions. If requested, the department shall provide a representative
7 to the city or town for assistance at public hearings on comprehen-
8 sive permit applications. The department shall provide an annual
9 report designating what constitutes affordability. The report shall
10 detail certain financial amounts for a one bedroom, two bedroom
11 and so on.

1 SECTION 14. Said chapter 40B is hereby further amended by
2 inserting after section 23 the following section:—

3 Section 24. Mitigation Fund. The Mitigation Fund shall be
4 established pursuant to this section, and shall provide financial
5 assistance to cities and towns across the Commonwealth if they
6 are unduly burdened by a low or moderate income housing project
7 built pursuant to Chapter 40B of the Massachusetts General Laws.
8 Any public agency or limited dividend or nonprofit organization
9 proposing to build low or moderate income housing, and applying
10 for a comprehensive permit with the board of appeals shall con-
11 tribute to the Mitigation Fund. The entity must contribute an
12 amount designated by the Department of Housing and Community

13 Development to be fair and sufficient to create a fund. For the
14 purposes of this section, unduly burdened shall be defined as, the
15 town or city has been impacted disproportionately due to the spe-
16 cific project. The project may unduly burden the communities'
17 schools, roads, and other services. The city or town must be able
18 to prove by clear and convincing evidence that the project has
19 unduly burdened the community. The Housing Appeals Com-
20 mittee is designated as the Board which will hear and decide the
21 requests for financial assistance brought by the city or town.